

SUBCHAPTER 1405

CLASSIFICATION, PAY, AND ALLOWANCES

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SUBCHAPTER 1405

CLASSIFICATION, PAY, AND ALLOWANCES

- References:** (a) Chapter 71 of title 5, United States Code
(b) Executive Order 12871, 58 Federal Register 52201,
“Labor Management Partnerships,” October 1, 1993, as amended
(c) OPM Operating Manual, “Federal Wage System, Nonappropriated Fund”
(d) Chapter 53, Subchapter IV of title 5, United States Code, August 19, 1972
(e) Title 5, Code of Federal Regulations, Part 532, “Prevailing Rate Systems”
(f) DoD Directive 5120.42, “Department of Defense Wage Fixing Authority--
Nonappropriated Fund Compensation Programs,” May 19, 1977
(g) through (w), see enclosure 1

A. GENERAL POLICY

1. Head of Component Responsibilities:

- a. Delegating classification and pay-setting authority to the lowest practical level.
- b. Overseeing, through personnel management evaluations or other means, to ensure equitable and efficient pay administration, and the balancing of fiscal constraints with the need to recruit and retain a high-quality workforce.
- c. Ensuring that managers have access to necessary operating instructions, and advising the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD(CPP)) of any need for such instructions to be included in this Subchapter.
- d. Ensuring compliance with labor relations provisions of Chapter 71 of 5 U.S.C. (reference (a)) and E.O. 12871 (reference (b)).

2. **Pay Systems for DoD NAF Employees.** The following pay systems are the only pay systems authorized for DoD NAF employees:

a. **Payband Classification and Pay System for White-Collar (Non-Crafts and Trades) NAF Employees.** This system covers NAF white-collar employees world-wide except as otherwise indicated in paragraphs A.2.c. through g., below. It shall be implemented in accordance with Appendix A of this Subchapter.

b. **Crafts and Trades (CT) Federal Wage System(FWS).** Pub. L. 92-392 originally established the Nonappropriated Fund Instrumentality (NAFI) Federal Wage System for CT employees. Mandatory instructions are contained in an OPM Operating Manual (reference (c)), which implements Subchapter IV of Chapter 53 of 5 U.S.C. (reference (d)) and 5 CFR 532 (reference (e)). Appendix B of this Subchapter provides supplemental instructions. DoD Directive 5120.42 (reference (f)) defines the authorities and responsibilities of the Wage and

Salary Division (WSD) of the Civilian Personnel Management Service for determining pay for NAF employees.

c. **Child Care Payband System.** This system covers NAF Child Development Program Assistants, Leaders, and Technicians. It implements provisions of Chapter 88 of 10 U.S.C. (reference (g)) that require wages competitive with other Federal employees in the labor pool. It is consistent with DoD Instruction 6060.2 (reference (h)). This system shall be implemented in accordance with Appendix C of this Subchapter.

d. **Summer and Student Employment of Dependent Youth in Foreign Areas.** Youth employed at DoD overseas installations where the Fair Labor Standards Act (FLSA) (reference (i)) does not apply shall be paid in accordance with the rates as issued by WSD.

e. **Panama Canal Pay System.** NAF employees in Panama are covered by the pay system directed by the Panama Area Personnel Board consistent with its delegated authority, Army regulations, and Chapter 51, title 22 of U.S.C. (reference (j)).

f. **Foreign National Pay.** Pay for foreign national NAF employees accords with Subchapter 1231 of this Manual.

g. **Administrative Support (AS) and Patron Services (PS) Employees.** The principles of DoD 1401.1-M are administratively extended to cover AS and PS positions. All AS and PS positions shall be converted to the payband system described in paragraph A.2.a., above, consistent with labor relations obligations. Pending conversion to paybanding, AS and PS pay policy shall be consistent with the provisions contained in Appendix B for CT employees.

B. SPECIFIC PAY POLICIES

1. **Prohibition on Personal Services Contracts.** A personal services contract may not be used where an employer and employee relationship results from the performance of work. Such jobs shall be graded and paid under the applicable pay system described in this Subchapter. DoD 7000.14-R, Volume 13 (reference (k)) lists the common law rules that characterize employment relationships.

2. **Fair Labor Standards Act.** FLSA provisions cover all employees including off-duty military personnel determined to be nonexempt from FLSA. This determination shall be made in accordance with 5 CFR 551 (reference (l)).

3. **Premium Pay (Overtime, Holiday, Sunday, and Night Pay).** Refer to Appendix D of this Subchapter for NAF premium pay rules.

4. **Severance Pay.** The severance pay rules in DoD 1401.1-M (reference (m)) are superseded. Appendix E of this Subchapter contains NAF severance pay rules.

5. **Garnishment of Wages.** NAF employees are subject to the garnishment rules of section 659 of 42 U.S.C. (reference (n)) and section 5520a of title 5 U.S.C. (reference (o)). OPM implementing regulations, 5 CFR 581 (reference (p)) and 582 (reference (q)), apply to Executive Branch employees, including NAF employees. The agents designated to accept legal process are listed in 5 CFR, Appendix A (reference (p)). 5 CFR 582, Appendix A (reference (q)) provides listings only for those executive agencies where the designations differ from those found in 5 CFR 581, Appendix A (reference (p)). Volume 13 of DoD 7000.14-R (reference (k)) identifies additional implementing instructions covering those nonappropriated fund instrumentalities that receive payroll services from the Defense Finance and Accounting Service.

6. **Pay Limitations or Restrictions**

a. **Pay Supplementation.** No monetary or non-monetary supplementation of wages shall be provided to or accepted by any NAF employee except as authorized by applicable laws, executive orders, DoD regulations, or this Subchapter.

b. **Dual Compensation.** The provisions of Sections 5531, 5532, and 5533 of 5 U.S.C. (reference (r)) pertaining to dual pay and employment apply to NAF employees.

c. **Aggregate Limitation on Pay.** Other provisions of this Chapter limit specific elements of compensation. An employee's aggregate compensation, basic pay plus any allowance, differential, bonus, award, or other cash payment, shall not exceed the annual rate payable for Level I of the Executive Schedule as of the end of the calendar year. This aggregate limitation on pay shall be in accordance with 5 CFR 530, Subpart B (reference (s)).

7. **Payment of Travel and Transportation Expenses.** When it is clearly in the interest of the NAFI, expenses for essential travel and transportation of employees and their dependents shall be allowed in amounts not to exceed those prescribed in Volume 2 of the Joint Travel Regulations (reference (t)). Travel and transportation shall be paid under 5 CFR 575 (reference (u)), when appropriate, to employees assigned duties associated with area wage surveys. The Heads of DoD Components and the Commander, Army and Air Force Exchange Service, have approval authority for all matters covered by Volume 2 of the Joint Travel Regulations (reference (t)) and may authorize specific exceptions only when it is in the best interest of the Component.

8. **Separate Maintenance Allowance (SMA) for PCS Transfers.** The DoD Components may pay a SMA to NAF Payband System (NF) employees who transfer nonlocally and who maintain separate households for minor dependent children so that they can finish the school term at the old duty station. The allowance shall be paid for no more than one semester, except that it may be paid for a full school year when the dependent is a high school senior. Maintaining a separate household means any living arrangement at the old duty station where the employee is paying a monthly amount for room and board for the dependents. The allowance shall be in the same amount as those prescribed by the Department of State for overseas employees receiving SMA for dependents living in the continental United States. Employees stationed in foreign overseas areas may receive SMA for other reasons as prescribed by the Department of State.

9. **Recruiting Bonuses, Relocation Bonuses, and Retention Allowances**

a. **General.** These bonuses and allowances may be paid to non-crafts and trades employees not to exceed the basic Sections 5753 and 5754 of 5 U.S.C. (reference (v)), and 5 CFR 575 (reference (u)) limitations applicable to appropriated fund employees. 5 CFR 575.304 (reference (u)) restrictions related to the Federal Government or non-Federal Government status of the prospective employer do not apply. These bonuses and allowances are used sparingly and only in very selective situations. They shall not be considered part of an employee's rate of basic pay for any purpose, including calculation of retirement annuity. Recovery of funds, on a pro-rata basis, must be sought when employees fail to complete their required period of service. The amount of a retention allowance should be reduced or terminated when it is determined that a lesser amount or no allowance at all would be sufficient to retain the employee; i.e., labor-market conditions have changed to the extent that recruitment of employees with needed qualifications is possible, the need for the services of the employee has lessened, or budgetary considerations preclude payment. An annual review and recertification of necessity must be made to continue the payment of the retention allowance.

b. **Documentation and Record Keeping.** As a minimum, the following information shall be recorded annually:

(1) The number of employees accepting recruiting and relocation bonuses and retention allowances;

(2) The percentage of salary accepted, and the justification for the payment, in each individual case;

(3) Any recertification of necessity, in each individual case, to continue the payment of a retention allowance; and

(4) A summary statement assessing the effect the bonus and allowance authority had on the activity's ability to recruit and retain high-quality employees in key positions.

C. **SPECIFIC JOB CLASSIFICATION POLICY.** Each position shall be assigned to its proper occupational category, title, series, and grade or payband level, consistent with the duties and responsibilities of the position, and application of proper job-grading standards. The only authorized occupational categories and associated job-grading standards for NAF positions are stated in Subsections C.1. through 4 below. OPM has final classification authority for CT positions.

1. **Crafts and Trades.** The CT category includes positions in a recognized craft or trade, or in an unskilled, semiskilled, or skilled manual labor occupation, including supervisory and leader positions having craft, trade, or laboring experience and knowledge as paramount requirements. In accordance with 5 U.S.C. (reference (c)), Components shall accomplish job grading for CT positions in accordance with the OPM Operating Manual, Subchapter S6 (reference (d)) and "OPM Job Grading Standards for Trades and Labor Occupations." Supplemental guidelines are

included in DoD 1401.1-M-1 (reference (w)). Components shall review new or revised OPM standards and affected positions and take appropriate action within 6 months from the effective date of the standard.

2. **NAF Payband System**. White-collar or non-craft and trades positions shall be placed in the NF category and graded (assigned to the proper payband level) consistent with Appendix A of this Subchapter.

3. **Administrative Support (AS) and Patron Services (PS)**. See DoD 1401.1-M-1 (reference (w)).

4. **Child Care Payband System (CC)**. As an exception to subsection C.2., above, positions directly involved in the care and supervision of children in a Military Child Development Center (CDC) shall be placed in the CC category and graded in accordance with Appendix C of this Subchapter. The CC category does not include home-based child care providers or CDC administrative and support personnel such as cooks, janitors, and clerical assistants.

5. **Mixed Jobs**. A mixed job involves performance of duties in two or more occupations at the same or different pay levels or plans on a regular and recurring basis. A mixed job is graded based on the duties that involve the highest skill and qualification requirements. The pay plan for a mixed job with both FWS and NAF Payband System duties is determined as follows:

a. The position must be classified based on its “paramount requirements.” Paramount requirements relate to knowledge, skills, and abilities needed to perform the primary duty or responsibility of the position. The primary duty is the duty that constitutes the basic reason for the existence of the position and governs the qualification requirements. If a position requires trades, crafts, or laboring experience and knowledge for the performance of its primary duty, and this requirement is paramount, the position is a FWS position and shall be so classified.

b. A position is classified under the NAF Payband System if its primary duty requires knowledge or experience of an administrative, clerical, services, business management, or technical nature not related to trades, crafts, or manual labor-work.

6. **Job Classification Appeals**. A NAF employee may appeal the classification of his or her job. Heads of Components, or designees, shall establish a position classification review and employee appeal system in accordance with the provisions of Subchapter S7, OPM Operating Manual (reference (d)) for CT jobs; Appendix A of this Subchapter for NF jobs; and Appendix C of this Subchapter for CC jobs. Until AS and PS jobs are converted to the payband system, AS and PS employees continue to have the right to appeal to the DoD NAF Personnel Policy Office after the Component review process is completed. The decision of DoD NAF Personnel Policy Office is binding; the employee has no further right to an administrative appeal. It is noted that per OPM Operating Manual (reference (d)), CT employees may appeal to OPM, but must first use agency appeal procedures.

ENCLOSURE 1

REFERENCES, continued

- (g) Chapter 88 of title 10, United States Code, "Military Family Programs and Military Child Care"
- (h) DoD Instruction 6060.2, "Child Development Programs," January 19, 1993
- (i) 29, United States Code, "Fair Labor Standards Act of 1938," as amended
- (j) Chapter 51, title 22, United States Code, "Panama Canal Act of 1979,"
- (k) Department of Defense Regulation 7000.14-R, "Financial Management Regulation Nonappropriated Fund Policy and Procedures," Volume 13, August 1994
- (l) Title 5, Code of Federal Regulations, Part 551, "Pay Administration Under Fair Labor Standards Act"
- (m) DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 1988
- (n) Section 659 of title 42, United States Code, "Garnishment of Federal Employees' Wages and Retirees' Annuities and Social Security Benefits to Enforce Court Ordered Obligations of Child Support and/or Alimony"
- (o) Section 5520a of title 5, United States Code "Garnishment of Pay,"
- (p) Title 5, Code of Federal Regulations, Part 581, "Processing Garnishment Orders for Child Support and/or Alimony"
- (q) Title 5, Code of Federal Regulations, Part 582, "Commercial Garnishment of Federal Employees' Pay"
- (r) Chapters 5531-5533, title 5, United States Code, "Dual Compensation Act," August 19, 1964
- (s) Title 5, Code of Federal Regulations, Part 530, "Pay Rates and Systems (General)"
- (t) Joint Travel Regulation, Volume 2, "Department of Defense Civilian Personnel"
- (u) Title 5, Code of Federal Regulations, Part 575, "Recruitment and Relocation Bonuses; Retention Allowances; Supervisory Differentials"
- (v) Sections 5753 and 5754 of title 5, United States Code, "Recruitment and Relocation Bonuses; Retention Allowances"
- (w) DoD 1401.1-M-1, "DoD Job-Grading System Manual for Nonappropriated Fund Instrumentalities," October 1981 as authorized by DoD Instruction 1401.1